

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:10-cv-194-RJC**

GEORGE CUNNINGHAM-EL,)
)
 Petitioner,)
)
v.)
)
KEITH WHITENER,)
)
 Respondent.)
)

ORDER

THIS MATTER comes before the Court on initial review of a Petition under 28 U.S.C. § 2254 for a Writ of Habeas Corpus. (Doc. No. 1).

I. BACKGROUND

Petitioner George Cunningham-El (“Petitioner”) was convicted of murder in the first degree and illegally discharging a firearm on September 4, 1992. (Doc. No. 1 at 1). That same day, he was sentenced to life in prison plus five years. Petitioner left his form 2254 petition largely blank. He argues only that the court lacked jurisdiction over him because he is a Moor. (Id. at 5). In response to the question asking whether his petition was timely filed, Petitioner wrote that he was “at a disadvantage psychologically.” (Id. at 13). In one letter, Petitioner amended this excuse to state that he “was suffering from emotional distress.” (Doc. No. 2). In another letter, Petitioner changed the response back to “psychological disadvantage instead of emotional distress.” (Doc. No. 3). Petitioner also corrected his name to “Cunningham-Bey.” (Id.).

II. DISCUSSION

Rule 4 of the Rules Governing § 2254 Cases directs habeas courts to promptly examine habeas petitions. 28 U.S.C.A. foll. § 2254. When it plainly appears from any such petition and any attached exhibits that the petitioner is not entitled to relief, the reviewing court must dismiss the motion. Id.

In Headen-El v. Keller, the Eastern District of North Carolina dismissed a petition based on the same Moorish independence argument on initial review. No. 1:11-cv-590, 2011 WL 3568282, at *2 (E.D.N.C. Aug. 15, 2011). The court stated that it was “aware of no instance where such a claim has succeeded or even been recognized as potentially viable.” Id. It then dismissed the case because it “plainly appear[ed] from the Petition and attached exhibits that Petitioner [was] not entitled to any relief.” Id.

Likewise, it plainly appears that this Petitioner is not entitled to relief. His Petition, (Doc. No. 1), is **DISMISSED**.

IT IS, THEREFORE, ORDERED that Petitioner’s § 2254 Petition, (Doc. No. 1), is **DISMISSED**.

Signed: January 18, 2012

A handwritten signature in black ink, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
Chief United States District Judge

